IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

WP(C).No. 36805 of 2007(F)

PETITIONERS:

1. **K.P.JOSEPH, FLAT B-11, RECCA HEIGHTS, RECCA VALLEY, KAKKANAD.**
2. **JANCY JOSEPH, FLAT B-11, RECCA HEIGHTS, RECCA VALLEY, KAKKANAD.**

BY ADV. SRI.ROY CHACKO

RESPONDENTS:

1. **STATE OF KERALA REPRESENTED BY DISTRICT COLLECTOR, ERNAKULAM.**
2. **THE DEPUTY TAHSILDAR (RR), KANAYANNUR TALUK, TALUK OFFICE, ERNAKULAM, KOCHI-682 011.**
3. **THE VILLAGE OFFICER, VILLAGE OFFICE, THRIKKAKARA.**

BY GOVERNMENT PLEADER SRI. MATHEW GEORGE VADAKKEL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI,J.

W.P (C) No. 36805 of 2007

Dated this the 13th December, 2007

J U D G M E N T

The second petitioner is the wife of the 1st petitioner. The first petitioner was the accused in C.C. No.388 of 1996 and C.C. No.658 of 1996 of Judicial First Class Magistrate Court, Kolencherry, for offences punishable under Section 138 of the Negotiable Instruments Act. Though there was a conviction by the trial court, it was reversed by the lower appellate court. The order of acquittal was challenged before this Court and it ultimately led to Exhibit-P1 judgment, whereby, the acquittal was reversed and the accused was convicted and directed to undergo imprisonment till the rising of the Court and to pay a compensation of Rs.3,50,000/- to the complainant and in default, to undergo simple imprisonment for three months. Petitioners contend that though there was a direction in Exhibit-P1 requiring the 1st petitioner to appear before the Judicial First Class Magistrate Court, Kolenchery on 8.10.2007,he was not aware of the judgment and therefore he could not appear before the said Court. Petitioners now reside in a rented apartment in Kakkanad. Petitioners contend that they are desirous of challenging Exhibit-P1 before the Hon'ble Supreme Court. But

they are now faced with Exhibits P3 and P4 notices under the Revenue Recovery Act, which inter alia, contemplates attachment of movables. They have approached the District Collector under Exhibit-P5. Essentially, the request is for some time to enable them to move the Supreme Court. There is also a contention that the movables kept in the building do not belong to the petitioners.

After having heard the learned counsel for the petitioners and the learned Government Pleader also, this writ petition is disposed of directing respondents 2 and 3 to keep in abeyance the enforcement of Exhibits P3 and P4 for a period of six weeks from today. This will be subject to an undertaking by the petitioners that they will not alienate any properties which they hold at present. In the said undertaking they will also given a list of assets . Such undertaking shall be filed before the 1st respondent - District Collector, within three weeks from today. Further enforcement of Exhibits P3 and P4 will be subject to any orders to be passed in this regard, within a period of six weeks.

(V.GIRI, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007